

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Affymetrix, Inc., :
: Plaintiff,
v. : : Civil Action No. 04-901-JJF
: Illumina, Inc., :
: Defendant. :
:

TRIAL MANAGEMENT ORDER

The Infringement and Damages Trial in this matter is scheduled to commence on **Monday March 5, 2007 at 9:30 a.m.** The Court has reviewed the Proposed Pre-trial Order, specifically the witness and exhibit list submitted by each side. Based on this review, the Court has determined that the following schedule and procedures will allow for an efficient and fair presentation of each party's case.

1. **Time.** The Court will keep a running total of trial time used by counsel.

(a) Plaintiff is allocated eleven (11) hours for opening statement, direct and cross examinations, and argument on evidence issues.

(b) Defendant is allocated eleven (11) hours for opening statement, direct and cross examinations, and argument on evidence issues.

(c) Opening statements are limited to one (1) hour.

(d) Closing arguments are not included in the time allocations.

(e) The trial schedule is as follows:

Monday, March 5, 2007	- 9:30 a.m. to 12:30 p.m.
	- 1:30 p.m. to 5:00 p.m.
Tuesday, March 6, 2007	- 9:30 a.m. to 12:30 p.m.
	- 1:30 p.m. to 5:00 p.m.
Wednesday, March 7, 2007	- 9:30 a.m. to 12:30 p.m.
	- 1:30 p.m. to 3:00 p.m.
Thursday, March 8, 2007	- 9:30 a.m. to 12:30 p.m.
	- 1:30 p.m. to 5:00 p.m.
Friday, March 9, 2007	- 9:30 a.m. to 12:30 p.m.
	- 1:30 p.m. to 5:00 p.m.

2. **Opening Statement.** No argument of counsel is permitted in the Opening Statement. Counsel may object if opposing Counsel provides argument during Opening Statement.

3. **Witnesses**

In accordance with Fed. R. Civ. P. 611 (a) the examination of witnesses will be conducted as follows:

(a) Counsel shall not offer testimony or exhibits that are duplicative or cumulative.

(b) Each witness is subject to direct, cross and re-direct examination. No further examination is permitted.

(c) Rebuttal witnesses will be permitted only if:

(i) called by a party with the burden of proof and noticed in the Pre-trial Order.

(ii) such a witness is necessary to avoid an injustice and cause is established.

(d) One lawyer per party is permitted to examine a witness.

4. **Demonstrative Exhibits**. Unless otherwise agreed by the parties, demonstrative exhibits are marked for identification but not admitted into evidence.

5. **Jury Notes**. Unless otherwise indicated, the Court will provide the jury with paper and pens for notetaking.

6. **Jury Instructions**. Parties shall submit Final Proposed Jury Instructions on disk in WordPerfect Format by no later than **9:00 a.m. on Thursday, March 8, 2007**.

7. **Courtroom Demeanor**

(a) Counsel may use the podium at his or her discretion.

(b) The Court does not conduct sidebar conferences. If a matter needs to be addressed outside the hearing of the jury, counsel shall bring it to the Court's attention at the conclusion of the trial day.

(c) Counsel should avoid requesting "read backs" by the Court Reporter; however, if a read back is believed necessary, counsel shall address the request to the Court.

(d) Counsel shall stand when addressing the Court or Jury.

(e) When the Court recesses, counsel and the parties shall remain in place until the Court and Jury have exited the Courtroom.

(e) Food and beverages (including bottled water), other than the water provided by the Court, are not permitted in the Courtroom at any time.

March 1, 2007


UNITED STATES DISTRICT JUDGE